

1. Considered January 31, 19 79
2. Name of Applicant Gerald A. Kettering
3. Post Office Address Mellette, SD
4. Amount of Water Claimed 2.0
5. Source of Water Supply James River
6. Water to be used for Irrigation
7. Acres to be irrigated 144 maximum acre feet
8. Water to be diverted and used in Spink County
about 5W, 3 miles south of Brentford
9. PROOF OF PUBLICATION Received 12/22/78

Not Received _____

APPLICATION

Approved 4-10-80 FE&CL 7-24-80

Subject to BELOW SAND LAKE TO JAMES
DIVERSION - DAM - QUAL.

Not approved _____

Action deferred 1/31/79

Priority
2/6/76

Date Received 2/6/76 Application Complete yes X no _____ FEE \$8.00

Remarks _____

Date information and/or
fee or corrected Application received _____

Period of Annual use April thru October

WATER
QUALITY

Received yes _____ no _____ APPROVED/CONDITIONAL (Circle one)

N/A

WI-1 Description same as application yes _____ no _____ Remarks _____

Disapproved _____

Returned _____

Diversion Point _____

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 16 - 119 - 63

Lands to be irrigated _____

NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ 16-119-63

WELL
LOG

Remarks _____

Driller _____ licensed yes _____ no _____

Depth _____

MAP Map No. 2008-3 Map located in Water Right X Map file _____
Type of Map DRAWN Prepared by WIERSSMA-PE

+++++

REVIEWED This Application was reviewed within 30 days of date received, accepted as complete, Number assigned and written up for advertisement before the Board on 1-31-79.

[Signature]
(Signed)

+++++

PROTESTS Letters/Petitions in File - yes no Remarks _____

REMARKS Date
F.F. & C Final Decision, including F.F. & C of Law were adopted 7-24-80
OF LAW, Date
FINAL Final Decision mailed to parties and/or parties notified that Final Decision
DECISIONS was adopted _____
ETC.

Remarks _____

No. 2641-3Map No. 2008-3 Water Division No. 3 JAMES RIVER District _____
(Blanks to be Filled by the Engineer for the W. R. C.)

APPLICATION FOR PERMIT

To Appropriate Water within the State of South Dakota

(NOTE - Draw a line through items not applicable)

1. Name of Applicant XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX Allen D Kettering
 Postoffice address Hell, He State S. Dak 57461
 If a corporation show date and place of incorporation N. H.
2. Method of accomplishing work (contract, employment of others, or by direct labor) Direct Labor
3. Name of diversion work Kettering Irrigation Project #1
4. Amount of water claimed (cubic feet per second) 2.10
5. Source of water supply James River
6. Location of point of diversion 2500' N 90° W of NE corner
Section 16-119-63
SW SE 9-119-63 County Brookings
7. Annual period or periods during which water is to be used April through October
8. Use to be made of water, (irrigation, industrial, municipal, commercial, recreation, etc.) Irrigation
9. For irrigation use, Total number of acres to be irrigated 144

List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.

Land Description	No. Acres Irr.	Land Description	No. Acres Irr.
NW 1/4 of NE 1/4 Sec 16-119-63	29	NW 1/4 of SE 1/4 Sec 16-119-63	28
NE 1/4 " " " "	38		
SW 1/4 " " " "	10		
SE 1/4 " " " "	39		

Attach sheet if more space is needed

10. Time required to complete construction of water supply system Five years. Additional time required to complete application of water to the proposed beneficial use Three years.
11. Choice of newspaper for Notice of Intent to Appropriate Water publication Brookings Press
12. Principal Features of the Proposed Water Supply System.

A. Works proposed to divert water from its natural source.

Pump on River Bank.

B. Works proposed to transport water to place of use.

closed conduit

C. Works proposed to apply water to beneficial use.

lose pull with big gunEstimated Total Cost \$30,000Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map.
(See instructions concerning preparation.)

STATE OF SOUTH DAKOTA

County of BrookingsI, Allen D Kettering the applicant, certify that I have read the foregoing application and have examined the attached map and that the matters therein stated are true and that I intend, and am able to complete the necessary construction.Signed Allen D KetteringSubscribed and sworn to before me this 25 day of Jan 1976John L Williams
Notary Public (or other qualified officer)P.E.H. 1976

WATER RIGHT APPLICATION APPROVAL

The Water Rights Commission hereby approves Water Right Application No. 2641-3

GERALD KETTERING
(Applicant)

MELLETT
(Post Office Address)

SOUTH DAKOTA 57961 With the following modifications:
(State)

SEE ATTACHMENT for qualifications:

Date of first receipt of application February 6, 19 76
Date of return to applicant for correction, amendments or changes required , 19
Date of receipt of corrected application , 19
Approved July 24, 19 80, Recorded in Book 21 Page 257

WATER RIGHT PERMIT NO. 2641-3

The Water Rights Commission hereby grants and issues this Water Right Permit No. 2641-3 authorizing the construction of the water use system and the putting of water to beneficial use as stated in the Application and as modified in the Water Right Application approval, subject, however, to the following limitations and conditions:

1. The date from which applicant may claim right is February 6, 19 76
2. The equivalent of at least one-fifth of the work above specified is to be completed on or before January 24, 19 83
3. The whole of said work is to be completed on or before July 24, 19 85
4. The limit of time from proof of beneficial use of water appropriated in accordance herewith is July 24, 19 88
5. The water appropriated shall be used for the purpose of IRRIGATION
6. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.
7. The amount of the appropriation herein granted shall not exceed 2.0 cubic feet per second; neither shall it exceed the capacity of the above described water supply system, nor shall it exceed the amount of water needed for beneficial purposes, and if for the irrigation purposes said appropriation must be limited to not more than 3 acre feet per acre per year and be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before July 24, 19 88; said water to be used during the following described annual period: April thru October

Witness my hand this 9th day of August, 19 80

WATER RIGHTS COMMISSION

By:

John Hatch

Chief Engineer, Executive Officer

JOHN HATCH

Certificate of Construction Issued , 19

Water License issued , 19

Below Sand Lake to James Diversion Dam

This Permit No. 2641-3 is approved subject to the following qualifications:

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under this Permit, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualifications.
3. The permit holder under this Permit shall completed and return the irrigation questionnaire each year to the Board or its representative.
4. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserved water supply.

Permit No. 2641-3, Gerald A. Kettering, Mellette, S.D.



No. 2641-3

Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501

Phone 605/224-3151

March 31, 1976

Jerry A. Kettering
Mellette
South Dakota 57461

Dear Mr. Kettering:

This will acknowledge receipt of your application to appropriate water from the James River for irrigation purposes. It has been assigned No. 2641-3.

The Commission has adopted a regulation that 300 cubic feet per second diversion can be allowed in the stretch of the river between the north Yankton County line, and the North Dakota - South Dakota state line. This figure has been reached.

Applications which are received proposing diversions from the James River are placed in a deferred status pending further evaluations on the James River and to allow time for development of the existing permits.

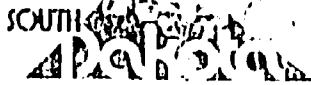
You will be advised of further developments.

Sincerely,

BURTON F. JONES
Water Rights Specialist

LFI/bw

Encl: Receipt No. 4 4022 in the amount of \$8.00.



Department of Natural Resource Development

WATER RIGHTS COMMISSION

Joe Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

Gerald A. Kettering
Mellette,
SD 57461

2641-3

December 6, 1978

TO: persons with pending applications for water rights from the James River.

FROM: John Hatch, Chief Engineer, Water Rights Commission

This notice is being written to all persons who have made application for a water right from the James River, which have been deferred with no official action taken by the Water Rights Commission.

The Commission has directed the Staff to advertise the pending applications for hearing, so official action can be taken. Water conditions have not changed on the James River, and no water is presently available for appropriation. The Commission expects to defer the applications at the time of the public hearing until such time as water becomes available. During the deferred period, the applications will retain the priority of the date of receipt by this office.

Will you please notify this office, before January 1, 1979, if you wish your application advertised for hearing. If you wish to withdraw your application, before advertising, it will be returned along with the fee.

Also, the following checked items will be required before we can process your application:

1. Fee in the amount of \$8.00.
2. The map submitted with your application does not show the diversion point and lands to be irrigated. Please obtain an aerial photo.
3. The map has not been signed by a licensed land surveyor, or a South Dakota Registered Professional Engineer or by a governmental employee who prepares such maps as a regular part of his governmental employment.

Very truly yours,

A handwritten signature in cursive script, reading "John Hatch", is written over a printed name.

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bt

No. 2641-3

Publish first publication, on or before December 29, 1978

NOTICE OF HEARING ON
APPLICATION TO APPROPRIATE WATER

Pierre, South Dakota 57501

December 11, 1978

Notice is hereby given that Gerald A. Ketterling whose post office address is Melleto, South Dakota, has made an application in accordance with the provisions of SDCL 46-1-1 thru 46-1-9, 46-1-14; 46-2-9 thru 46-2-11, 46-2-13; 46-5-1 thru 46-5-8, 46-5-10 thru 46-5-22, 46-5-41, and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13, for a permit to appropriate for beneficial use 2.0 cubic feet of water per second of time from the James River through the Ketterling Irrigation Project #3 the point(s) of diversion of which is(are) to be located XXX in the NW 1/4 NE 1/4

of Section 16, Twp. 119N, Range 63W. Said water to be used for the purpose of providing irrigation on portions of the following described land:

NE 1/4 and NW 1/4 SE 1/4, Section 16-T119N-R63W

This Application No. 2641-3 will be considered by the Water Rights Commission at SDCA Auditorium, 411 East Capitol, Pierre SD upon the 31st day of January, 1979 at 10 A.M. The Commission is authorized to make a determination on this application at the hearing. All interested persons may appear and be heard. Any person who may be affected by a Commission decision who desires to present evidence or cross-examine witnesses according to SDCL 1-26 may notify the Commission in writing prior to the hearing or orally at the hearing.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

WATER RIGHTS COMMISSION

BETTY WESTLUND
Water Rights Specialist,

cc: Gerald A. Ketterling
Melleto SD 57461

No. 2641-3

February 5, 1979

Mr. Gerald A. Kettering
Mellotte, SD 57461

Dear Mr. Kettering:

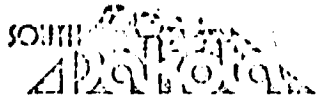
For your information the Water Rights Commission at their January 31, 1979 meeting have placed your Application No. 2641-3 in a deferred status.

If you have any questions feel free to contact this office.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Commission

JH/bt



20 44 4

Department of Natural Resource Development

WATER RIGHTS COMMISSION
Joa Foss Building, Pierre, South Dakota 57501
Phone 605/773-3151

March 19, 1979

TO: Applicants and Persons Concerned with James River Applications
Considered January 31, 1979

FROM: John Hatch, Chief Engineer, Water Rights Commission

SUBJECT: Submission of Proposed Findings of Fact and Conclusion of Law

The Water Rights Commission will continue the contested case hearing on James River Applications considered January 31 and February 1, 1979, on March 28, 1979 at 10:00 A. M. or as soon thereafter as this matter comes before the Commission. The hearing will be held in the Community Room of the City Hall, 222 East Dakota, Pierre SD.

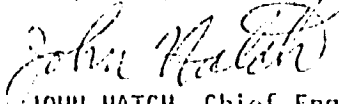
The Water Rights Commission at the January 31 and February 1, 1979 Commission hearing passed a motion to allow all parties to prepare and submit proposed Findings of Fact and Conclusions of Law and a proposed decision for the Commission to consider. The Commission may consider and the Commission may adopt the Findings of Fact and Conclusions of Law and a final decision made on the James River Applications considered January 31, 1979.

The Oahe Conservancy Sub-District has submitted a petition to contest the Commission's January 31 deferral of the James River Applications. The petition asks the Commission to reject all pending James River Applications. The Commission may consider and may adopt a motion to reconsider its January 31st motion to defer in order to entertain the Sub-District's petition.

This hearing will be conducted in accordance with the provisions of SDCL 46-1-1 thru 46-1-9; 46-1-14; 46-2-9 thru 46-2-11; 46-2-13; 46-5-1 thru 46-5-8; 46-5-10 thru 46-5-22; 46-5-41 and Commission Rules ARSD 52:01:01:01 thru 52:01:01:13.

This hearing is an adversary proceeding. Any person has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised at the hearing. Decisions of the Commission may be appealed to the Courts as provided by law.

Very truly yours,


JOHN HATCH, Chief Engineer
Water Rights Commission

JH:kjw

No. 2641-3

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Spink) ss.

I, Robert C. Quirk hereby

certify that the annexed printed copy of Notice of Intent to Appropriate
Water was taken from the Redford Press

A newspaper which during the whole time of publication of said notice
herein after stated, has been and is printed and published in the

city of Redford
County of Spink and State of South Dakota;
that the said notice was published in said newspaper on the following
two dates:

December 14

December 21

Robert C. Quirk
(Signature)

Clark
(Title)

12/21/78
(Date Signed)



No. 53

No. 2641-3

NOTICE OF HEARING
ON APPLICATION TO
APPROPRIATE WATER

Pierre, South Dakota 57501
December 11, 1978
Notice is hereby given that
Gerald A. Kettering whose post
office address is Mellette, South
Dakota, has made an application
in accordance with the provisions
of SDCL 46-1-1 thru 46-1-9, 46-1-14,
46-2-9 thru 46-2-11, 46-2-13, 46-3-1
thru 46-3-8, 46-5-10 thru 46-5-22, 46-
5-41, and Commission Rules
ARSD 16-52-01, 01-01 thru
52-01-01, 13, for a permit to ap-
propriate for beneficial use 2.0
cubic feet of water per second of
time from the James River
through the Kettering Irrigation
Project No. 2, the point of
diversion of which is to be located
in the NW 1/4, NE 1/4 of Section 16,
Twp. 119N, Range 63W. Said
water to be used for the purpose
of providing irrigation on por-
tions of the following described
land: NW 1/4, NE 1/4, SE 1/4, Section
16, T119N, R63W, S4, NE 1/4, NE 1/4.
This application No. 2641 will
be considered by the Water
Rights Commission at SD 7A
Auditorium 711 East Capitol
Pierre, SD upon the 31st day of
January, 1979 at 10 A.M. The
Commission is authorized to
make a determination on this
application at the hearing. All
interested persons may appear
and be heard. Any person who
may be affected by a Commission
decision who desires to present
evidence or cross-examine
witnesses according to SDCL 1-26
may notify the Commission in
writing prior to the hearing or
orally at the hearing.
This hearing is an adversary
proceeding. Any person has the
right to be present or to be
represented by a lawyer. These
and other due process rights will
be forfeited if they are not
exercised at the hearing.
Decisions of the Commission may
be appealed to the courts as
provided by law.

WATER RIGHTS
COMMISSION
BETTY WESTLUND
Water Rights
Specialist
cc: Gerald A. Kettering,
Mellette, SD 57461.
(December 14, 21)

Water Rights Division (605) 773-3352

July 28, 1980

Allen Ketterling
Mallette, SD 57461

Dear Mr. Ketterling:

Mr. Bob Sampson called this office and indicated that you were in the process of transferring Gerald Ketterling's water rights. Per his request, enclosed please find three transfer notices, one for each of his permits.

Please check over, complete, sign, have notarized, and return them to this office with a required filing fee of \$2.50 each. As soon as the \$7.50 and the completed forms are received in this office, the water permits can be transferred to the proper name(s).

If you have any questions, please contact this office.

Sincerely,

GENNY YOUNG
Staff Assistant

gy

encl

RECEIPT

WATER RIGHTS COMMISSION

State of South Dakota

No 4 7748

PIERRE, October 24, 1980

RECEIVED OF Allen D. Kettering, RP 1, Box 78, Mallette, SD 57461

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit to Appropriate Water No. (examination, processing, recording and filing)	
Fee for Inspecting Construction, and Issuing Cert. of Construction No.	
Fee for Inspecting Beneficial Use, and Issuing Water License No.	
Fee for Issuing Location Certificate-Dry Draw, No.	
Fee for filling	
Fee for certified copy of	
Fee for Print copy of map	
Fee for Certifying	
Fee for transfer of WR# 2641-3 (any other work as provided by law)	2 50
TOTAL	2 50

WATER RIGHTS COMMISSION

By *John Hatch*
Chief Engineer, Executive Officer
JOHN HATCH / (b)

NOTICE OF TRANSFER OF WATER PERMIT



2641-3

TO: Water Rights
Foss Building
Pierre, SD 57501

Date: October 22, 1980

This is to notify you that the title to the lands described as follows:

144 acres - NE $\frac{1}{4}$ 16-119-63 and NW $\frac{1}{4}$ SE $\frac{1}{4}$ 16-119-63

formerly owned by Gerald Kettering, Mellette, SD

has been transferred to ALLEN D. KETTERING, MELLETTE, S.D. (Owner)
KEITH W. KETTERING (Renter) Mellette, S.D.
together with any rights to the beneficial use of water thereon as evidenced by
Water Right Permit No. 2641-3 as provided for in SDCL 46-5-32 and 46-5-33.

You are therefore hereby requested to file this "Notice of Transfer of Water Permit" in its appropriate file at the Office of the Board of Water Management as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is hereto attached to cover filing fees as required under SDCL 46-2-13.

STATE OF SOUTH DAKOTA)
County of SPINK) ss.

I, Allen D. Kettering being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and I know of my own personal knowledge that the information herein stated is true.

Allen D. Kettering
(Signed)

Subscribed and sworn to before me this 22 Day of October, 1980.

John T. Collins
(Notary Public)



Department of Water & Natural Resources

Joe Foss Building
Pierre, South Dakota 57501

(605) 773-3352
Water Rights Division

No. 1757-3
2641-3✓
4071-3

December 23, 1980

Mr. Jerry Kettering
Melleite, SD 57461

Dear Mr. Kettering:

As per your request to this office, this letter is to notify you that your Water Right Permits No. 1757-3, 2641-3 and 4071-3 were transferred and sent to Mr. Allen D. Kettering of Melleite, SD.

If you have any questions concerning this matter, please contact this office.

Sincerely,

BARB TEMPLETON
Staff Assistant

Equal Opportunity Employer

1757-3
2641-3
4071-3

October 27, 1980

Allen D Ketterling
Hellette, SD 57461

Dear Mr. Ketterling:

Enclosed are receipt Nos. 4 7747, 4 7748 and 4 7749 in the amounts of \$2.50 each which you paid for the transfer of Water Permit Nos. 1757-3, 2641-3 and 4071-3.

Our records now show you as the owner of these Water Right Permits.

Sincerely,

GENNY YOUNG
Staff Assistant

gy

encl

STATE OF SOUTH DAKOTA)
 : SS
COUNTY OF HUGHES)

BEFORE THE SOUTH DAKOTA
BOARD OF WATER MANAGEMENT

In the matter of James River)
Water Permit Application Nos.)
1914-3, 1915-3, 2629-3,)
2629-3, 2632-3, 2635-3,)
2640-3, 2641-3, 2642-3,)
2643-3, 2645-3, 2654-3,)
2873-3, 2874-3, 2877-3,)
2879-3, 2880-3, 4066-3,)
4067-3, 4068-3, 4069-3,)
4072-3, 4073-3, 2633-3,)
2634-3, 2637-3, 2638-3,)
2639-3, 2646-3, 2703-3,)
2755-3, 4065-3, 4070-3,)
4071-3, 4074-3, 2602-3,)
4496-3, 4494-3, 4495-3,)

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND FINAL DECISION

A hearing was held before the Board of Water Management on April 10 and 11, 1980, in Huron, South Dakota to consider the above-entitled matters. Present at the hearing were the following board members: Mr. Dennis Decker, Mrs. Marian Gunderson, Mr. Wendell Hanson, Mr. Leland Harms, Mr. Ray Rylance and Mr. Merwyn Walter. Appearing at the hearing as counsel for the Board was Mr. Robert Timm, Assistant Attorney General; appearing for the Department of Water and Natural Resources was Mr. Curtis Wilson, Assistant Attorney General and appearing for the Oahe Conservancy Subdistrict was Ms. Betty Ganje, Attorney at Law. Based upon the files of the Board of Water Management (hereinafter referred to as the Board) and the testimony and evidence presented at the hearing, the Board makes the following Findings of Fact, Conclusions of Law and Final Decision.

FINDINGS OF FACT

1. That the Water Resources Commission (a predecessor to the Board) based on the information then available, set a 300 cfs limit and an August 10th cutoff date for diversions from the James River at its May, 1965 meeting. Water permits continued to be approved until May of 1968 when the 300 cfs limit was reached at which time the Water Rights Commission (a predecessor to the Board) adopted a policy of

automatically deferring without advertising further applications until it was determined that water was available. At the November, 1975, meeting of the Commission it was determined that additional water permits could be issued within the 300 cfs limit because of cancellation of prior permits. Further permits were issued at that time to bring the total permitted appropriations up to the 300 cfs limit. Additional permits were received after November of 1975 and were advertised and officially deferred at the January and March, 1979 meetings of the Water Rights Commission. The James River was withdrawn from further appropriation for one year at the March, 1979 meeting so that additional studies could be made to determine if there was unappropriated water available.

2. That the James River was reopened for appropriation at the January, 1980 meeting of the Board in order to allow advertising of deferred and pending applications and that all applications have been regularly advertised and affidavits of publication have been received.

3. That the Oahe Conservancy Subdistrict filed a petition at the March, 1979 meeting contesting all deferred applications and the Department of Water and Natural Resources moved to dismiss the petition.

4. That the Oahe Conservancy Subdistrict has a Future Use Permit No. 1067-3 for appropriations from the James River in connection with the proposed Oahe Project.

5. That granting the deferred applications for James River Water will have no effect on any interest, pecuniary or otherwise, of the Oahe Conservancy Subdistrict to water in the James River.

6. That these deferred applications for permits for James River water, to the extent they may conflict with the Oahe Conservancy Subdistrict's Future Use Permit No. 1067-3, are subject to that permit.

7. That the Water Rights staff has conducted detailed hydrographic surveys of the availability of water in the James River and studies of the anticipated effects of

approving additional water permits based on projected development and use by appropriators.

8. That based on the studies of actual irrigation development and use, it is projected that a maximum of fifty percent of permitted acres will be irrigated at any one time.

9. That based on such surveys and studies there is unappropriated water available during the spring and through July 15th of normal years.

10. That the determination that there is unappropriated water available is based strictly on flows naturally occurring in the James River and is not based in any way upon anticipated flows which may be diverted into the James River by the proposed Garrison Project in North Dakota.

11. That the Water Quality staff has conducted a detailed study of the James River as a fishery entitled: "An Instream Flow Recommendation for the Protection of Warm Water Fishery Propagation on the James River."

12. That citizens of South Dakota, as well as other states, make substantial use of the James River for recreational fishing as well as other instream beneficial uses.

13. That the James River, particularly those portions below the city of Huron, South Dakota, supports a variety of fish and aquatic life as well as acting as a spawning ground for fish in the Missouri River.

14. That protection of the instream beneficial uses of the James River requires both good quality water as well as sufficient quantity and velocity of water.

15. That protection of the instream beneficial uses of the James River may be accomplished while still approving additional permits for appropriation from the James River by imposing on those permits for diversions below the city of Huron certain by-pass requirements.

16. That it is in the public interest and consistent with making the fullest beneficial use of the

waters of the James River to approve the following water permits subject to the following restrictions:

A. Above Sand Lake - No. 2640-3; No. 2634-3

1. Water may not be diverted under these permits until water is by-passing the lower most Sand Lake dike.
2. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
3. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
4. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
5. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and these applications are approved subject to these prior rights if or when the Oahe Subdistrict

develops the reserve water supply.

B. Below Sand Lake to James Diversion Dam -

No. 2638-3	No. 2602-3
No. 2628-3	No. 2629-3
No. 2632-3	No. 2635-3
No. 2637-3	No. 2639-3
No. 2641-3	No. 2645-3
No. 2646-3	No. 2703-3
No. 2873-3	No. 2874-3
No. 4065-3	No. 4066-3
No. 4068-3	No. 4071-3
No. 4496-3	

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
4. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and this application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserved water supply.

5. With regard to Application No. 2602-3
only, approval authorizes off-stream
storage of 368 acre feet of water annually.

C. Diversion Dam to Third Street Dam, Huron, South
Dakota - No. 2879-3; No. 2643-3; No. 4070-3.

1. No diversions after July 15th of each year,
nor in periods of obvious low flow without
a written order of the Water Management Board
or its legally appointed representative.
Diversions shall be in accordance with
written orders, if any, of the Board or its
representative.
2. Prior water rights on the James River
contain an August 10th cut-off date,
and the additional requirement that
diversions cannot be made when 20 cfs
are not by-passing the Third Street
Dam in Huron, to provide for downstream
domestic use. In the management of the
James River under these permits, flows
will be monitored at all gauging stations,
and cut-offs will be timed to insure water
supplies to fulfill the prior water rights
and domestic qualification.
3. Permit holders shall complete and return
the irrigation questionnaire each year to
the Board or its representative.

D. Below Huron - July 15th Cut-off

No. 1915-3	No. 2633-3
No. 2642-3	No. 2654-3
No. 2755-3	No. 2877-3
No. 2880-3	No. 4067-3
No. 4069-3	No. 4072-3
No. 4073-3	No. 4074-3

1. No diversions after July 15th of each year,
or in periods of obvious low flow without a
written order of the Water Management Board
or its legally appointed representative.

Diversions shall be in accordance with written orders, if any, of the board or its representative.

2. To maintain instream flows for instream and domestic purposes, these permits do not authorize diversions when there are less than the following cfs by-passing the Scotland Gauging Station:

- (a) less than 80 cfs during any month of April;

- (b) less than 70 cfs during any month of May;

- (c) less than 50 cfs during any month of June;

- (d) less than 20 cfs during the remainder of the year.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

E. Below Huron - August 10 Cut-Off - No. 1914-3

1. No diversions after August 10th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board.

2. The permit holder shall complete and return the irrigation questionnaire each year to the Board or its representative.

F. Flood Flow Storage - No. 4494-3, No. 4495-3

1. Permit No. 4494-3 permit allows off-stream storage of 100 acre feet of water to be diverted annually from flood flows.
2. Permit No. 4495-3 allows off-stream storage of 120 acre feet of water to be diverted annually from flood flows.

3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

17. That the plans of development of the pending permit applications are feasible under the above-listed restrictions.

CONCLUSIONS OF LAW

1. That this Board has jurisdiction over the subject matter and parties to this proceeding.

2. That the Oahe Conservancy Subdistrict has no interest in this matter entitling them to intervene.

3. That the general welfare of the State requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable.

4. That this Board has authority pursuant to SDCL Chapter 34A-2-11 and SDCL 46-5-18 to impose by-pass restrictions on appropriations from the James River to protect instream and domestic uses, recreational uses and the fish and aquatic life in the James River.

5. That all legal requirements for the pending applications have been met and that the applications for water permits should be approved.

FINAL DECISION

I.

That the Motion to Dismiss the Petition of the Oahe Conservancy Subdistrict is hereby granted.

II.

That Water Permit Applications Nos. 1914-3, 1915-3, 2628-3, 2629-3, 2632-3, 2635-3, 2640-3, 2641-3, 2642-3, 2643-3, 2645-3, 2654-3, 2873-3, 2874-3, 2877-3, 2879-3, 2880-3, 4066-3, 4067-3, 4068-3, 4069-3, 4072-3, 4073-3, 2633-3, 2634-3, 2637-3, 2638-3, 2639-3, 2646-3, 2703-3, 2755-3, 4065-3, 4070-3, 4071-3 and 4074-3 shall be approved subject to the following qualifications:

A. Above Sand Lake - No. 2640-3; No. 2634-3

1. Water may not be diverted under these permits until water is by-passing the lower most Sand Lake dike.
2. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
3. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
4. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
5. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and these applications are approved subject to these prior rights if or when the Oahe Subdistrict develops the reserve water supply.

B. Below Sand Lake to James Diversion Dam -

No. 2638-3	No. 2602-3
No. 2628-3	No. 2629-3
No. 2632-3	No. 2635-3
No. 2637-3	No. 2639-3
No. 2641-3	No. 2645-3
No. 2646-3	No. 2703-3
No. 2873-3	No. 2874-3
No. 4065-3	No. 4066-3
No. 4068-3	No. 4071-3
No. 4496-3	

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. The permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
4. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3 and this application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserved water supply.
5. With regard to Application No. 2602-3 only, approval authorizes off-stream storage of 368 acre feet of water annually.

2. For instream flow purposes, these permits do not authorize diversions when there are less than the following cfs by-passing the Scotland Gauging Station:
 - (a) less than 80 cfs during any month of April;
 - (b) less than 70 cfs during any month of May;
 - (c) less than 50 cfs during any month of June;
 - (d) less than 20 cfs during the remainder of the year.
 3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.
- E. Below Huron - August 10 Cut-Off - No. 1914-3
1. No diversions after August 10th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
 2. The permit holder shall complete and return the irrigation questionnaire each year to the Board or its representative.
- F. Flood Flow Storage - No. 4494-3, No. 4495-3
1. Permit No. 4494-3 permit allows off-stream storage of 100 acre feet of water to be diverted annually from flood flows.
 2. Permit No. 4495-3 allows off-stream storage of 120 acre feet of water to be diverted annually from flood flows.
 3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

C. Diversion Dam to Third Street Dam, Huron, South Dakota - No. 2879-3; No. 2643-3; No. 1070-3.

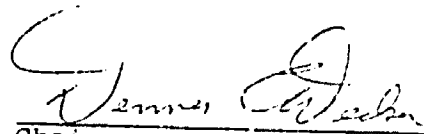
1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. Permit holders shall complete and return the irrigation questionnaire each year to the Board or its representative.

D. Below Huron - July 15th Cut-off

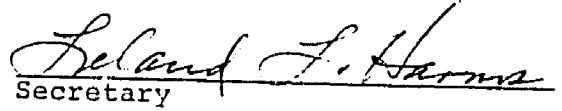
No. 1915-3	No. 2633-3
No. 2642-3	No. 2554-3
No. 2755-3	No. 2877-3
No. 2880-3	No. 4067-3
No. 4069-3	No. 4072-3
No. 4073-3	No. 4074-3

1. No diversions after July 15th of each year, or in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the board or its representative.

Dated this 24th day of July, 1930.



Chairman



Secretary

GERALD A. KETTERING

IRRIGATION PROJECT #1

Melleche

South Dakota

B. Spink County

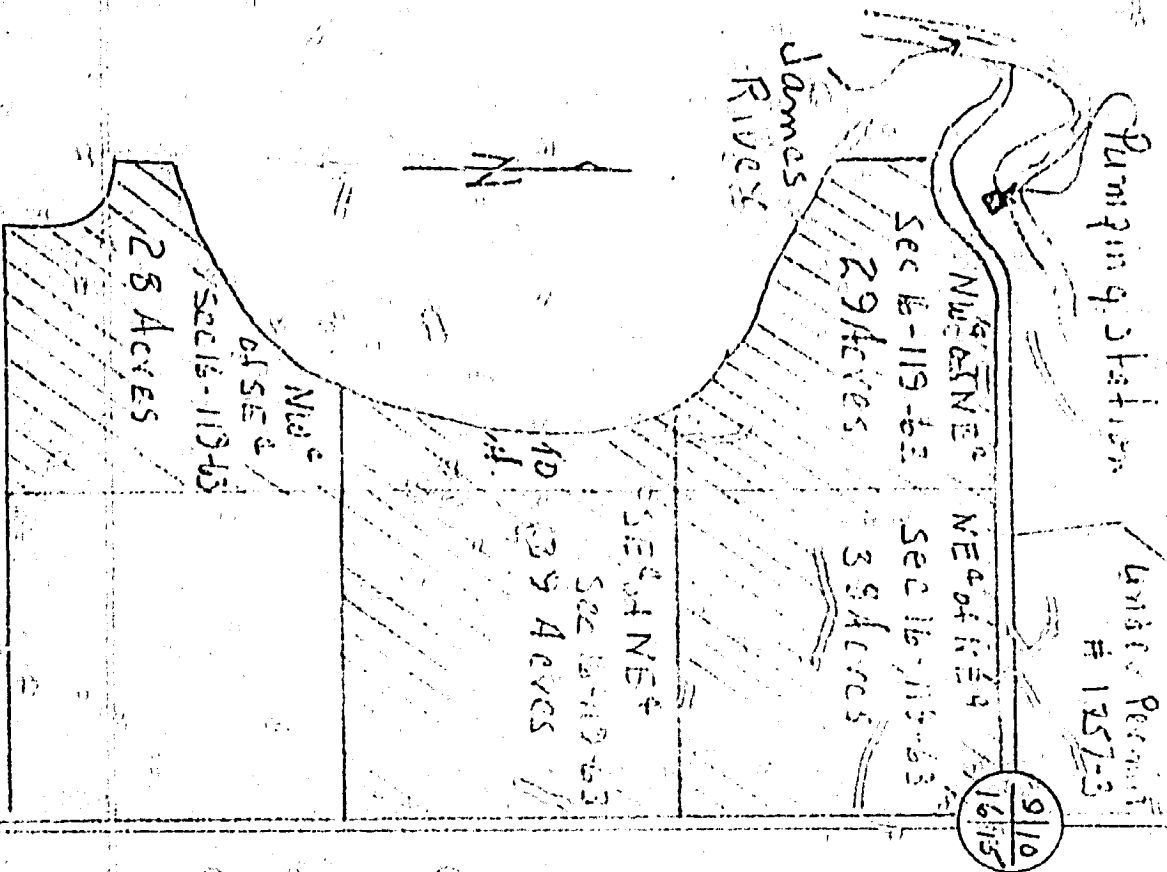
Point of Division

2500' N 90° W of NE corner Sec 16-115-63

Acres Irrigated - 144

Water claimed - 2.2 cfs

Scale - 1" = 1 Mile



Surveyor's Certificate

I, John L. Wetters, do hereby certify that this map is a true and accurate record of the land

Melleche Gerald A. Kettering

Dr. William J. Smith

1-25-76
P.E. 11316
Bred 11316

Division of Water Rights
605 773-3352

2641-3

August 3, 1983

NOTICE

TO: Allen D Kettering, Mallette SD 57461
FROM: John Hatch, Chief Engineer, Water Rights Division
SUBJECT: Continuous Pumping After July 31, 1983

The flows in the James River are expected to continue to be above average. // July 28, 1983, flows at Columbia were about 350 cfs. Because of the available supplies of water in the James River, the shutoff date is extended until September 30, 1983. This extension is subject to change if flow conditions warrant an earlier cutoff.

JH:JW:kw



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501

WATER RIGHTS DIVISION
Phone (605) 773-3352

No. 4071-3

2641-3

APR 24 1985

Allen D. Katterling
Rm#1, Box 78
Melleto, South Dakota 57461

Dear Mr. Katterling:

Enclosed herewith is, Water License No. 4071-3. This is the final water right document completing your process of obtaining a water right.

As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division

JH:ms

Enclosures

The applicable portions of Water Right No. 1757-3 and Water Permit No. 2641-3 are incorporated into this Water License No. 4071-3.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

April 24, 1987

NOTICE

TO: Allen D Kettering
% Keith Kettering
SR, Box 77
Bath SD 57461

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352 *John Hatch*

SUBJECT: Amendment of Water Right No. 2641-3 and Water Permit
No. 4071-3 which has been incorporated into Water Right
No. 2641-3

Notice is given that the Water Management Board will consider deleting and adding the following qualifications to Water Right No. 2641-3 and Water Permit No. 4071-3.

Qualifications to be deleted:

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed to insure water supplies to fulfill the prior water rights and domestic qualification.
3. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserve water supply.

Qualifications to be added:

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20 cfs of water is by-passing the Third Street Dam in Huron.
3. Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior water rights if or when the reserved water supply is developed.

The hearing to consider amendment of Water Right No. 2641-3 and Water Permit No. 4071-3 to delete and add the above qualifications will be held May 6, 1987 at 4:15 pm, Room 216, Joe Foss Building, 523 E Capitol, Pierre SD. The hearing will be held pursuant to the provisions of SDCL 46-1-14 and 46-2-17.

The hearing is based on the results from inspection of James River water permits/rights completed in the spring of 1985. The attached report "Status of James River Water Rights" summarizes the results of the inspections. The proposed amendment to Water Right No. 2641-3 and Water Permit No. 4071-3 is based on the decrease in James River water appropriation from 443.92 cubic feet of water per second to 254.07 cfs. The Board has legal authority and jurisdiction to consider this matter pursuant to SDCL 46-2-9 and 46-2-11.

After all evidence is taken at the hearing, the Board may issue a decision to delete and add the above qualifications, postpone any action or taken no action. This hearing is an adversary proceeding. Any party has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.



Department of Water & Natural Resources

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

May 18, 1987

NOTICE

Allen D Kettering
% Keith Kettering
SR, Box 77
Bath SD 57461

Dear Mr. Kettering:

This letter is in response to action taken by the Water Management Board to amend Water Permit Nos. 2641-3 and 4071-3. The Board amended Water Permit Nos. 2641-3 and 4071-3 by deleting and adding the qualifications on the enclosed "Attachment" which should be placed with the permits. The action was taken pursuant to the notice to you dated April 24, 1987.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Hatch". The signature is written in a cursive style.

JOHN HATCH, Chief Engineer
Water Rights Division
605 773-3352

enclosures

ATTACHMENT TO WATER PERMIT NO. 2641-3

ALLEN KETTERING

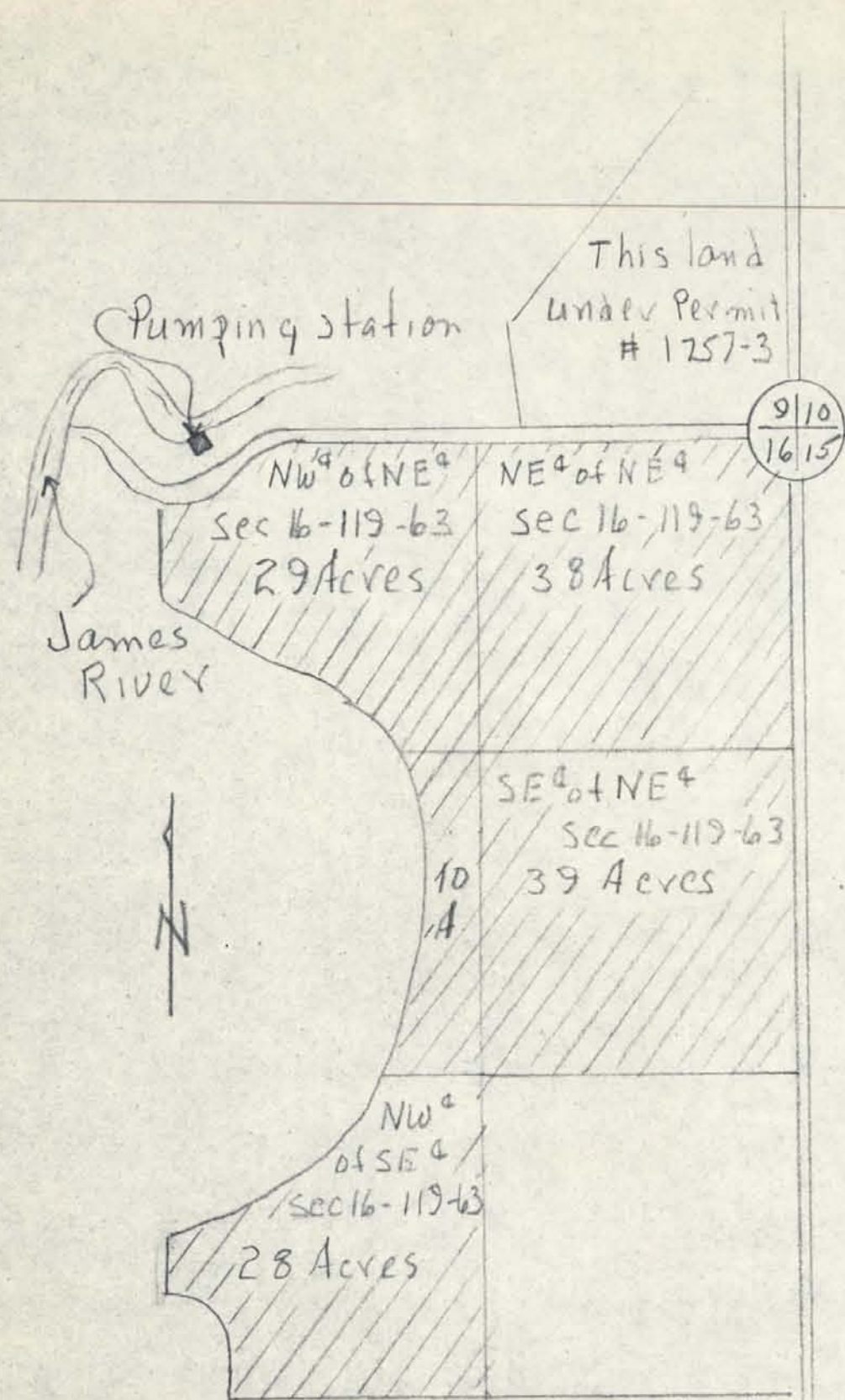
The Water Management Board amended Water Permit No. 2641-3 at the May 6, 1987 Board meeting to delete and add the following qualifications:

Qualifications deleted:

1. No diversions after July 15th of each year, nor in periods of obvious low flow without a written order of the Water Management Board or its legally appointed representative. Diversions shall be in accordance with written orders, if any, of the Board or its representative.
2. Prior water rights on the James River contain an August 10th cut-off date, and the additional requirement that diversions cannot be made when 20 cfs are not by-passing the Third Street Dam in Huron, to provide for downstream domestic use. In the management of the James River under these permits, flows will be monitored at all gauging stations, and cut-offs will be timed in insure water supplies to fulfill the prior water rights and domestic qualification.
3. The Oahe Subdistrict has priority rights to portions of this water to the limited extent they may exist under Future Use Withdrawal Permit No. 1067-3. This application is approved subject to these prior rights if or when the Oahe Subdistrict develops the reserve water supply.

Qualifications added:

1. This permit does not authorize diversion of water from the James River after August 10th of each calendar year, nor at any time when the river flow is obviously low, unless written orders have been so issued by the Chief Engineer. Diversions under this Permit shall be in accordance with any written orders issued by the Chief Engineer.
2. This permit does not authorize diversions from the James River when water is not by-passing the James River Dam north of Huron or when less than 20 cfs of water is by-passing the Third Street Dam in Huron.
3. Prior rights may exist for portions of this water to a limited extent under Future Use Withdrawal Permit No. 1067-3. This permit is subject to these prior water rights if or when the reserved water supply is developed.



GERALD A. KETTERING

IRRIGATION PROJECT #1

Mellee

South Dakota

~~Brown~~ County
S.P. 1/15

Point of Diversion

2500' N 90° W of NE corner Sec 16-119-63

Acres Irrigated - 144

Water claimed - 2 cfs

Scale - 8" = 1 Mile

Surveyor's Certificate

I, John L. Wiersma, do hereby certify that this map identifies a reasonably accurate record of the land of

Gerald A. Kettering

Mellee

South Dakota

Drawn by John

1-25-76

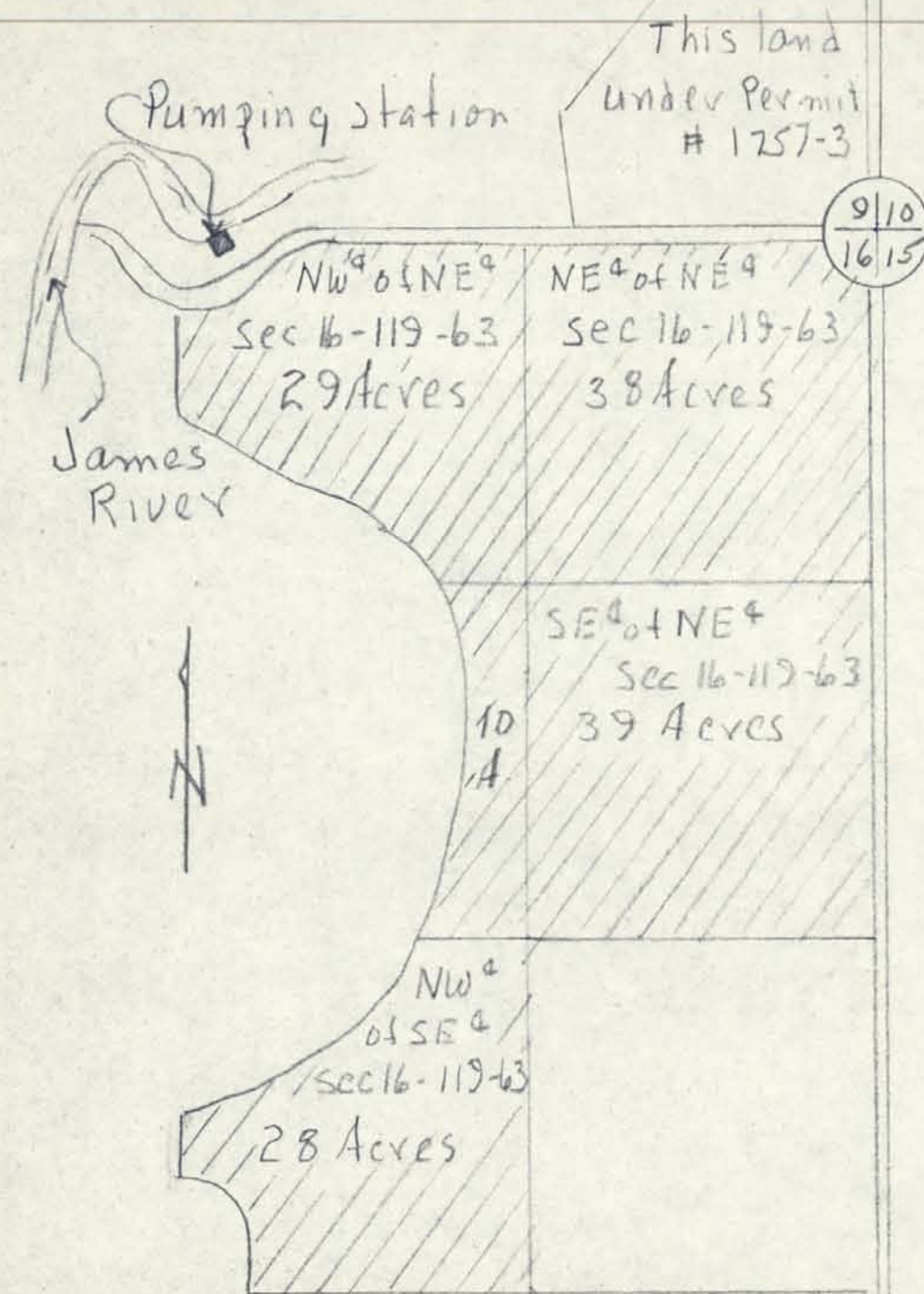
John L. Wiersma

P.E. #1916

Brookings
S.D.

MAP No. 20083

APPL. No. 2641-3



GERALD A. KETTERING

IRRIGATION PROJECT #1

Mellee

South Dakota

~~Brookings~~ County
S. P. N. K.

Point of Diversion

2500' N 90° W of NE corner Sec 16-119-63

Acres Irrigated - 144

Water claimed - 2 cfs

Surveyor's Certificate

I, John L. Wiersma, do hereby certify that this map identifies a reasonably accurate record of the land of

Gerald A. Kettering

Mellee

South Dakota

Drawing by John

1-25-76

John L. Wiersma

P.E. #1916

Brookings

S.D.

Scale - 8" = 1 Mile